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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Jammu and Kashmir Council for Human Rights (JKCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Human Rights situation in Indian administered Kashmir

Human Rights situation in the Indian administered part of Jammu and Kashmir has continued to occupy the time and interest of this Council. UN Security Council has listed these rights in its resolution of 21 April 1948. A special mention has been made of their rights and dignity, security and self-determination.

Outside this Council the gross and systematic violation of human rights in Indian administered part of Kashmir has been recently raised in the British and European Parliament. On 14 December 2017 The All Parties Parliamentary Group on Kashmir (APPG) in the British Parliament, chaired by Chris Leslie Member of Parliament, arranged an oral hearing on the human rights situation. Oral and written testimonies were received by the panel.

Human Rights Council needs to take a special note that on 7 May 2018 Indian security forces killed 32 year old Dr Muhammad Rafi Bhat an assistant professor in the Sociology Department of Kashmir University. He went missing on 4th May and was killed within 40 hours. Four other Kashmiri youth, Saddam Paddar, Bilal Ahmad Mohand, Adil Ahmad Malik, and Tawseef Sheikh were also killed with him. Indian security forces have profiled the Kashmiri youth and these youth were designated as category A++. The circumstances of disappearance and death of a young university teacher speak for themselves. A university teacher missing for 40 hours could not be transformed into a category A++ militant challenging the Indian rule in Kashmir.

There is a challenge to the status of the Indian security forces in Kashmir. It has been identified at the 241st meeting of the UN Security Council held on 5 February 1948. Indian army was allegedly required in Jammu and Kashmir in relation to a 'grave situation'. A cease-fire was brokered by UN between various elements, including India and Pakistan on 01 January 1949 and the 'grave situation' was reversed. In addition The State of Jammu and Kashmir is divided into three administrations. People are forced to live as divided and distributed people in these three administrations. A UN brokered cease fire line temporarily divides the land and separates the families. Life, property and honour was more secure on 26 October 1947, than it has been over some period in the recent past in the Indian administered Kashmir.

That there will be an ongoing challenge to these security forces has been pointed out by the United Kingdom at the 241st meeting of the Security Council. UK representative Noel Baker stated that, "It is my conviction that raids and incidents will continue to occur until the question of Kashmir has been disposed of by the Security Council…And, so long as fear dominates the minds of the peoples in that area of the Punjab and of Kashmir, incidents will continue and the situation will remain extremely grave."

Human Rights Council has to take into account that UN Security Council has recognised six interest groups, namely, Pakistan, insurgents, tribesmen, Government of India, other inhabitants of Jammu and Kashmir and the outside world. Insurgent are indigenous and are duly recognised as an interest group. Noel Baker of the United Kingdom stated, "This plebiscite must inspire confidence in everybody, including those who are now fighting. We have all stated it before. The representative of India said at our 239th meeting the day before yesterday that the two parties interested in the Kashmir question are Pakistan and the insurgents in Kashmir. Therefore, we have to satisfy these two parties. What the Security Council does must seem fair to these two parties. It must also seem fair to The Government of Pakistan, to the insurgents, to the tribesmen, to the Government of India, to the other inhabitants of Jammu and Kashmir, and to the outside world. That is why I arrived at the same conclusion as the other members of the Security Council who stated that impartial, interim administrative arrangements must be made. If we are looking into the past for precedents, I may say that I lived through two international crises; one over Upper Silesia and one over the Saar. I think that the arrangements made for those crises between the two wars will certainly be in agreement with proposals which have been made here."

Profiling and killing of Kashmiri youth by an army temporarily admitted into a part of the State and under three UN restraints, is a war crime. Noel Baker had made a serious point in regard to the killing of 'insurgents' and said, "We want a real total stoppage now, without further bloodshed, without more killing of the insurgents, whose votes, after all, we want in the plebiscite when it comes, our aim being to secure a responsible government, as the representative of

India has stated. We must get such a scheme. The question is how to do it." Indian security forces cannot profile and kill under any excuse.

"The question is how to do it", raised by UK representative Mr. Noel Baker has been appropriately answered by another UK representative Sir Gladwyn Jebb at the 606th meeting of the UN Security Council. He stated that "Efforts of the people of Kashmir on both sides of the cease fire line and indeed, of the peoples of India and Pakistan also, would be concentrated on the task of organizing the methods and procedures to enable the people of Jammu and Kashmir to express freely their wishes..."

This Council has heard enough on Kashmir and it has a fair view of the situation as it exists in the Indian administered part of Kashmir. The Council could work out or recommend to the General Assembly or Security Council, a mechanism which would involve and engage Kashmiris living on both sides of cease fire line, the five generations of Kashmiris living in Pakistan, Kashmiri diaspora and the people of India and Pakistan, in the task of organizing the methods and procedures to enable the people of Jammu and Kashmir to express freely their wishes..."

United Nations has finalised a template to secure rights and dignity, security and self-determination of the people of Jammu and Kashmir. The most urgent step is to demilitarise the State. India and Pakistan have agreed to a demilitarization. The Council need to appoint a sub-committee or a representative to consider the jurisprudence of UN Resolutions on Kashmir. Mrs Pandit the Indian representative as on 8 December 1952 at the 608th meeting of the UN Security Council is on record to have stated that, "after careful examination and assessment by its experts, the Government of India had come to the conclusion that a minimum force of 28,000 was required to carry out its responsibilities. However, on complete disbandment and disarmament of the Azad Kashmir forces, and as a further contribution towards a settlement, the Government of India is prepared to effect a further reduction of 7,000 to a figure of 21,000 which is absolute and irreducible minimum. I should like to emphasise that this figure, which includes the former State armed forces, represents less than one-sixth of the Indian forces at the time of the cease-fire. It should further be emphasised that this force will have no supporting arms such as armour or artillery."

UN Representative for India and Pakistan has proposed between 3,000 and 6,000 armed forces to remain on the Pakistani side of cease fire line and between 12,000 and 18,000 armed forces to remain on the Indian side of cease fire line. The justification given by India for an increased number of armed forces was to "safe-guard law and order, the integrity of the cease-fire-line and security of the territory on each side of that line." The argument on the character and number of armed forces advanced in 1952, has lost its appreciation and needs to be re-appreciated in 2018. Indian argument of keeping an increased number of armed forces on its side of the cease fire line has not been fully entertained by the United Nations.

United Kingdom has defended an equitable demilitarization. UK representative at the 606 meeting of the UN Security Council on 6 November 1952 in para 27 has found the Indian argument, as a condition not compatible with the idea of a 'free plebiscite'. Sir Gladwyn Jebb said, "I have mentioned earlier that at no stage should demilitarization involve a threat to the cease-fire agreement. This would mean that the forces of each side of the cease-fire line should be, broadly speaking of the same kind. I should make. it dear that the United Kingdom Government has never thought that the proposal to limit the forces on the Pakistan side of the cease-fire line to an armed civil force while leaving a military force on the other side of the cease-fire line was consistent with a really free plebiscite. I hope that representatives will join me in urging that the parties should resolve any differences they may still have on this point in the way which I have suggested."

The Council needs to take stock of the evidence presented since 1990 to date against the erring Indian securing forces and take a lead step, to defend the rights and dignity, security and self-determination of the people living under Indian administration.